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August 29

CONCORD, N.H.

To His Excellency, the Acting Governor,  
and The Honorable Council

Gentlemen:

You have requested me to advise you concerning the proper method for payment of expenses incurred by the State in controlling and extinguishing a forest fire in the unorganized township of Meserve, which, together with the expenses of other fires for which the State is legally responsible, amount to a present total of \$80,189.66.

The Legislature appropriated for the current fiscal year the sum of \$2,000 for this purpose. It is my opinion that the amount by which these expenses exceed the amount appropriated may legally be paid only by a transfer from the emergency fund.

Responsibility for payment of expenses of combatting forest fires in unorganized townships is imposed in the first instance upon the State. R.L., c. 233, s. 31. To the extent that funds are available, payment of such expenses is therefore clearly authorized and required. However, the Constitution of the State of New Hampshire (Pt. 2nd, Art. 56) as well as statutory law (R.L., c. 22, s. 38) establish the legislature as the only body which may appropriate public funds and prohibit the disbursement of public funds in excess of legislative appropriation. Accordingly, once the appropriation for a particular object has been exhausted, no further funds may be legally disbursed for that purpose, except to the extent that the Governor and Council may see fit to resort to the emergency fund established by R.L., c. 27, s. 44, as amended.

It is therefore my conclusion that the expenses of combatting forest fires, to the extent that they exceed the funds available from the appropriation, may only be met by payment from the emergency fund.

Respectfully yours,

Maurice M. Blodgett  
Deputy Attorney General